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Hate Crimes Bill Opposed by Religious Conservatives

By Kristy Milligan, Citizens Project Board Member

On May 4, 2007, the U.S. House of Representatives passed HR 1592, the Local Law Enforcement Hate Crimes Prevention Act of 2007, also called the Matthew Shepard Act. With the bill still facing review by the U.S. Senate (S 1105) and a veto threat from the White House, the future of the bill is uncertain. Yet one thing is definite: the bill is deepening the cultural chasm between some religious and social conservatives and gay rights advocates.

Named after Mathew Shepard, the gay University of Wyoming student who was beaten to death in 1998, the legislation would increase protections against this kind of bias-motivated violence across the nation. If passed, it would expand the classification for existing hate crimes laws to include gender, sexual orientation, gender identity and disability. Currently, the federal hate-crimes law covers attacks based on race, ethnicity, national origin and religion. In addition, the legislation would authorize the Department of Justice to aid in local investigations and prosecutions.

Opposition to the bill, arising predominately from religious and social conservatives, is consistently framed around sexuality issues. A May 1, 2007 press release from Concerned Women for America asserts that HR 1592 "... would grant individuals who engage in homosexual behavior ('sexual orientation') or those who cross-dress ('gender identity') preferential treatment over other citizens by elevating them to a specially protected class of victim."

Everyone would still have the right to speak his or her mind, as long as the speech does not incite or condone violence.

Statistics reflect, however, an undeniable need to protect the specific populations addressed in the Matthew Shepard Act. 2005 data from the FBI indicate that of the 7,163 hate crime offenses in the United States, 14.2 percent were triggered by a sexual orientation bias and nearly one percent were motivated by a disability bias – and these only represent offenses that were actually reported. Conspicuously absent from the FBI data are statistics about gender-related offenses, such as the Bailey, Colorado school shootings in 2006, in which a gunman broke into a high school and took six girls hostage, killing one.

The loudest opposition, however, centers on the contention that this bill threatens First Amendment rights, including freedom of speech and freedom of religion.

Opponents argue that the initiative would limit the ability of religious conservatives to practice their faith openly. According to a May 2, 2007 email from Focus on the Family Action, "[HR 1592] is ultimately designed to muzzle people of faith who dare to express their moral and biblical concerns about homosexuality." Specifically, religious conservatives worry that the bill would criminalize religious authorities preaching against homosexuality.

However, supporters of the bill are quick to point out that the Matthew Shepard Act applies only to violent acts, not speech. The only type of speech that would be prohibited is virulent hate messages crafted solely to incite physical violence against the gay, lesbian, bisexual and transgender community – speech that is currently not protected under the First Amendment anyway. According to a Human Rights Campaign primer on HR 1592, "During consideration of the bill, the Judiciary Committee explicitly noted that nothing in this legislation would prohibit the lawful expression of one's deeply held religious beliefs. To further ensure that there is no ambiguity on this point, an amendment offered by Rep. Davis (D-AL), was adopted that explicitly states that conduct protected under the First Amendment free expression and free exercise clauses are not subject to prosecution." Everyone would still have the right to speak his or her mind, as long as the speech does not incite or condone violence.

In a June 15, 2007 opinion column, Charles Haynes noted: "For all of the First Amendment debate, the real concern among conservative Christians may be more symbolic than legal...More than threats to free speech, it is the mainstream acceptance of gay, lesbian, bisexual and transgender people that many Christian conservative groups most fear."

Interestingly, the Matthew Shepard Act aims to mitigate fear of violence for vulnerable segments of our communities, not perpetrate it. Indeed, this bill ultimately seeks to generate compassion, love, and understanding for all humans – principles that should be familiar to every one of us – Christian or not. If opponents or supporters overlook the fundamental tenets that engendered this bill, such as kindness, decency, and humanity, they've ignored the very heart of the proposed legislation.

To read the bill (S1105), please visit: http://thomas.loc.gov/cgi-bin/thomas

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